



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

DEC - 5 2006

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
BARRY WONG

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF
PICACHO WATER COMPANY FOR AN
EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY IN THE CITY
OF ELOY IN PINAL COUNTY.

DOCKET NO. W-03528A-06-0313

IN THE MATTER OF THE APPLICATION OF
PICACHO SEWER COMPANY FOR APPROVAL
TO EXTEND ITS SEWER CERTIFICATE OF
CONVENIENCE AND NECESSITY TO
ADDITIONAL PORTIONS OF ROBSON RANCH
AND EJL RANCH IN PINAL COUNTY.

DOCKET NO. SW-03709A-06-0314

DECISION NO. 69174

OPINION AND ORDER

DATE OF HEARING:

October 6, 2006

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Yvette B. Kinsey¹

APPEARANCES:

Mr. Jim Poulos, General Manager, on behalf of
Applicants; and

Mr. Kevin O. Torrey, Staff Attorney, Legal Division, on
behalf of the Utilities Division of the Arizona
Corporation Commission.

BY THE COMMISSION:

On May 4, 2006, Picacho Sewer Company ("Picacho Sewer" or "Sewer Company") filed with the Arizona Corporation Commission ("Commission") an application for an extension of its Certificate of Convenience and Necessity ("Certificate" or "CC&N"), to include additional portions of Robson Ranch and EJL Ranch in Pinal County.

On May 4, 2006, Picacho Water Company ("Picacho Water" or "Water Company") filed with the Arizona Corporation Commission ("Commission") an application for an extension of its Certificate of Convenience and Necessity ("Certificate" or "CC&N") in the City of Eloy.

¹ Administrative Law Judge Amy Bjelland heard the hearing on behalf of ALJ Kinsey.

1 On June 1, 2006, the Commission's Utilities Division ("Staff") filed an Insufficiency Letter
2 indicating that the applications of Picacho Water and Picacho Sewer, collectively referred to as ("the
3 Utilities" or "Applicants") had not met the sufficiency requirements of the Arizona Administrative
4 Code ("A.A.C.").

5 On June 16, 2006, Picacho Water docketed additional information in support of its
6 application.

7 On July 14, 2006, Picacho Sewer filed its response to Staff's Data Request, stating, among
8 other things, that it was withdrawing its request to extend its CC&N for the EJR Ranch development.

9 On July 13, 2006 and July 20, 2006, Staff filed Sufficiency Letters in the applicant's
10 respective dockets indicating that the applications had met the sufficiency requirements as outlined in
11 the A.A.C.

12 On July 18, 2006, by Procedural Order, the hearing on Picacho Water's application was set
13 along with other procedural deadlines.

14 On July 26, 2006, by Procedural Order the hearing on Picacho Sewer's application was set as
15 well as other procedural deadlines.

16 On August 2, 2006, Staff filed a Motion to Consolidate the above-referenced applications.
17 Subsequently, by Procedural Order, the matters were consolidated for purposes of hearing, and a
18 hearing was scheduled to commence on October 6, 2006.

19 On August 9, 2006, the Utilities filed certification that they had provided notice of the
20 applications and hearing in accordance with the Commission's Procedural Order.

21 On September 1, 2006, Staff filed its Staff Report recommending approval of the applications
22 to extend the CC&Ns to provide wastewater and water services, subject to certain conditions.

23 On October 6, 2006, a full public hearing was convened before a duly authorized
24 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. Picacho Water's
25 and Picacho Sewer's Vice President and General Manager appeared on their behalf and Staff
26 appeared through counsel. Both presented evidence and testimony on the matter. No members of the
27 public were present to give public comment on the applications. At the conclusion of the hearing, all
28 matters were taken under advisement pending submission of a Recommended Opinion and Order to

1 the Commission.

2 * * * * *

3 Having considered the entire record herein and being fully advised in the premises, the
4 Commission finds, concludes, and orders that:

5 **FINDINGS OF FACT**

6 1. Pursuant to authority granted by the Commission, Picacho Water and Picacho Sewer²
7 are Arizona Corporations engaged in the business of providing water and wastewater services in
8 portions of Pinal County.

9 2. Picacho Water and Picacho Sewer are Arizona Corporations in good standing with the
10 Commission's Corporation Division. The Utilities originally received Commission authority to
11 provide water and wastewater utility service in Arizona in Commission Decision No. 61266
12 (November 25, 1998) and Decision No. 61996 (October 8, 1999), respectively. Picacho Sewer was
13 granted an extension to its CC&N in Decision No. 67670 (March 9, 2005).

14 3. On May 4, 2006, Picacho Water filed an application to extend its CC&N in the City of
15 Eloy in Pinal County. According to Picacho Water's application, Picacho Water is currently serving
16 an area known as Robson Ranch in Eloy and has received a request for service from the developer
17 to provide service to an additional 583 residential customers and a small number of non-residential
18 customers.

19 4. On the same date, Picacho Sewer filed an application to extend its sewer CC&N to the
20 same Robson Ranch areas and EJ Ranch in Pinal County. Picacho Sewer's application stated that
21 the developer for Robson Ranch owns the property located in EJ Ranch and that Picacho Sewer
22 received a request to provide sewer service to 600 residential customers and a small number of non-
23 residential customers in the proposed extension area.

24 5. On July 14, 2006, Picacho Sewer filed its response to Staff's Insufficiency Letter. In
25 its response, Picacho Sewer amended its application to delete the NW ¼ of Section 28, which

26 ² Picacho Water and Picacho Sewer are affiliated with Robson Communities, Inc. ("Robson"), a developer of master-
27 planned communities in Arizona and Texas. In association with some of its Arizona developments, Robson Communities
28 has formed and operates: Lago Del Oro Water Company, Pima Utility Water Company, Pima Utility Sewer Company,
Saddlebrook Utility Company, Ridgeview Utility Company, Quail Creek Utility Company, Mountain Pass Utility, Santa
Rosa Water Company and Santa Rosa Wastewater Company.

1 encompassed EJR Ranch because the development had been put on hold by the developer.

2 6. On August 2, 2006, Staff filed a Motion to Consolidate the applications, and
3 subsequently on August 17, 2006, by Procedural Order, Staff's Motion was granted.

4 7. On October 6, 2006, the Applicants appeared at hearing to give testimony on the
5 applications.

6 8. According to Staff's Report, the Utilities are seeking to add approximately $\frac{1}{4}$ square
7 mile to their respective CC&Ns. Picacho Water's existing CC&N encompasses seven square miles
8 and Picacho Sewer currently has a $8\frac{1}{2}$ square miles of Certificated area. The legal descriptions for
9 the proposed extension areas are set forth in Exhibit A, attached hereto and incorporated herein by
10 reference.

11 **Water System**

12 9. Picacho Water's existing water system has two wells producing 4,300 gallons per
13 minute ("GPM"), an 800,000 gallon storage tank, and a distribution system serving 31 service
14 connections.

15 10. According to Staff's Engineering Report, it is anticipated that the existing service area
16 could grow to approximately 150 connections at the end of five years. Additionally, Staff reported
17 that Picacho Water predicts that it will serve an additional 583 connections in the proposed extension
18 area, resulting in a projected total customer base of 733 customers at the end of five years.

19 11. Based on the existing well production and storage capacities, the system can serve
20 approximately 1,200 connections.

21 12. Picacho Water proposes to extend its water system to service the proposed extension
22 area at an estimated cost of \$15 million or \$2,500 per lot through debt and equity financing.

23 13. Staff concluded that the proposed water system will have adequate production and
24 storage capacity to serve the new CC&N area within a conventional five year planning period or can
25 reasonably be expected to develop the needed storage and production.

26 14. Picacho Water has not submitted its Arizona Department of Environmental Quality
27 ("ADEQ") Certificate of Approval to Construct ("ATC") for facilities needed to serve the requested
28 extension area. Staff recommends that Picacho Water file a copy of the ATC within two years of the

1 effective date of a Decision in this matter.

2 15. According to Staff's Report, ADEQ has determined that the Picacho Water system is
3 in compliance with the ADEQ Safe Drinking Water Rules.

4 16. On January 23, 2006, the U.S. Environmental Protection Agency ("EPA") reduced the
5 arsenic maximum containment level ("MCL") from 50 parts per billion ("ppb") to 10 ppb.
6 According to Staff's Report, Picacho Water has reported arsenic levels of 1 ppb for its #4 well and is
7 in compliance with the EPA's new standard.

8 17. Picacho Water is located in the Pinal Active Management Area ("AMA") and is in
9 compliance with AMA requirements.

10 18. According to Picacho Water, the developer has submitted an application for a
11 Certificate of Assured Water Supply ("CAWS"). Staff recommends that Picacho Water file a copy of
12 the developer's CAWS for the extension area, within two years of the effective date of a Decision in
13 this matter.

14 19. Picacho Water has an approved Curtailment Tariff on file with the Commission
15 effective March 25, 2005 in Decision No. 67670.

16 20. Picacho Water will provide service to the extension area at its existing rates and
17 charges on file with the Commission.

18 21. Staff recommends approval of Picacho Water's application for an extension of its
19 CC&N to provide water service, subject to compliance with the following conditions:

20 (a.) That Picacho Water charge its authorized rates and charges in the proposed
21 extension area.

22 (b.) That Picacho Water file with Docket Control, as a compliance item in this
23 docket, a copy of the ADEQ ATC for facilities need to serve the requested
24 areas within two years of the effective date of a Decision in this matter.

25 (c.) That Picacho Water file with Docket Control, as a compliance item in this
26 docket, a copy of the developer's CAWS for the proposed extension area
27 within two years of the effective date a Decision in this matter.

28 (d.) That Picacho Water file with Docket Control, as a compliance item in this

docket, a copy of the Pinal County franchise agreement for the extension area, within 365 days of a Decision in this matter.

22. Staff further recommends that if Picacho Water fails to comply with the above stated conditions, within the timeframes specified, that the CC&N conditionally granted should be considered null and void, after due process.

23. Staff's recommendations are reasonable and should be adopted.

WasteWater System

24. With respect to Picacho Sewer's wastewater system, Picacho Sewer has a 250,000 gallon per day ("GPD") wastewater treatment plant ("WWTP") and collection system. According to Staff's Report, the WWTP is currently not operational because the master-planned community is in the early stages of development and the wastewater flows have been minimal.

25. According to Staff's Report, Picacho Sewer's existing service area is expected to grow to approximately 150 laterals at the end of five years. Staff further reported that Picacho Sewer predicts an additional 600 laterals in the proposed extension area at the end of five years, resulting in a total customer base of approximately 750.

26. Staff concluded that based on Picacho Sewer's existing WWTP capacity, the system can serve up to 1,000 service laterals and the system has the capacity to serve both the existing and proposed extension area.

27. According to Staff's Report, the future effluent that will be produced by the WWTP will be used to water the golf course in the existing CC&N area and any excess flows will be sent to recharge basins and recharge wells.

28. Picacho Sewer's application proposes to extend its sewer system at a cost of \$3.0 million or approximately \$5,000 per lot which will be funded through the use of debt and equity financing.

29. ADEQ has reported that the WWTP was not operational as of August 1, 2006 due to low flows and because development is in the initial stages. Because of the low flows, influent is currently being collected in a wetwell tank and hauled to the Sun Lakes WWTP in accordance with Picacho Sewer's Aquifer Protection Permit ("APP").

1 30. On May 4, 2005, Picacho Sewer received its APP for its 250,000 GPD WWTP. On
2 June 17, 2005, Picacho Sewer received approval for a Section 208 Plan Amendment, for increased
3 treatment capacity to 5.4 million GPD.

4 31. According to Staff's Report, Picacho Sewer has stated there are no artificial lakes, golf
5 courses, ornamental structures or other aesthetic water features planned for the extension area and
6 that open spaces will be watered with groundwater in accordance with state law. Staff further stated
7 that Picacho Sewer plans to use effluent to water the golf course in the existing CC&N area,
8 beginning in the Fall 2006, when it is expected that development will reach 100 homes. Additionally,
9 the pipes for the effluent are already in place and any excess effluent will be sent to recharge basins
10 and recharge wells.

11 32. In recent months, the Commission has become increasingly concerned about the
12 prolonged drought in Central Arizona. Therefore, we believe Picacho Water and Picacho Sewer
13 should be required to conserve groundwater and that Picacho Water should be prohibited from selling
14 groundwater for the purpose of irrigating any future golf courses within the certificated expansion
15 areas or any ornamental lakes or water features located in the common area of the proposed new
16 developments within the certificated expansion areas.

17 33. Pursuant to A.R.S. § 40-282.B., every applicant for a CC&N and/or CC&N extension
18 is required to submit evidence that the applicant has received the required consent, franchise or
19 permit from the proper authority to the Commission. According to Staff's Report, the proposed
20 extension areas for Picacho Water and Picacho Sewer are located within an unincorporated area of
21 Pinal County. Therefore, Staff recommends Picacho Water and Picacho Sewer file a copy of the
22 Pinal County franchise agreement for the extension area within 365 days of the Decision in this
23 matter.

24 34. Staff recommends approval of Picacho Sewer's application for an extension of its
25 CC&N to provide wastewater in Pinal County, as amended and subject to the following conditions:

26 (a.) That Picacho Sewer charge its authorized rates and charges in the extension
27 area.

28 (b.) That Picacho Sewer file with Docket Control, as a compliance item in this

docket, a copy of the Pinal County franchise agreement for the extension area within 365 days of the Decision in this matter.

35. Staff further recommends that if Picacho Sewer fails to comply with the above stated conditions, within the time specified, the CC&N conditionally granted should be considered null and void, after due process.

36. Staff's recommendations are reasonable and should be adopted.

37. Picacho Water and Picacho Sewer have no reported outstanding compliance issues with the utilities Division Compliance Section.

38. Picacho Water and Picacho Sewer will charge their authorized rates and charges for water and wastewater in the proposed extension area.

39. Because an allowance for the property tax expenses of Picacho Water and Picacho Sewer are included in the Companies' rates and will be collected from its customers, the Commission seeks assurances from the Companies that any taxes collected from ratepayers have been remitted to the appropriate taxing authority. It has come to the Commission's attention that a number of water and wastewater companies have been unwilling or unable to fulfill their obligation to pay the taxes that were collected from ratepayers, some for as many as twenty years. It is reasonable, therefore, that as a preventive measure Picacho Water and Picacho Sewer should annually file, as part of their annual reports, an affidavit with the Utilities Division attesting that the Companies are current in paying their property taxes in Arizona.

CONCLUSIONS OF LAW

1. Picacho Water and Picacho Sewer are public service corporations within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-285.

2. The Commission has jurisdiction over Picacho Water and Picacho Sewer and the subject matter of the applications.

3. Notice of the applications was provided in accordance with the law.

4. There is a public need and necessity for water and wastewater service in the proposed service territory as set forth in Exhibit A, attached hereto and incorporated herein by reference.

5. Subject to compliance with the above-stated conditions, Picacho Water and Picacho

1 Sewer are fit and proper entities to receive extensions of their water and wastewater Certificates, for
2 the proposed extension area in Pinal County, and as set forth in Exhibit A.

3 6. Staff's recommendations, as set forth herein, are reasonable and should be adopted.

4 **ORDER**

5 IT IS THEREFORE ORDERED that the applications of Picacho Water Company and
6 Picacho Sewer Company, as amended, to extend their Certificates of Convenience and Necessity to
7 provide water and wastewater services in Pinal County, as described in Exhibit A, attached hereto
8 and incorporated herein by reference is hereby approved subject to the conditions and requirements
9 recommended by Staff, in the following ordering paragraphs.

10 IT IS FURTHER ORDERED that Picacho Water Company and Picacho Sewer Company
11 shall charge their authorized rates and charges currently on file with the Commission in the extension
12 area, until further Order of the Commission.

13 IT IS FURTHER ORDERED that Picacho Water Company shall file with Docket Control, as
14 a compliance item in this docket, a copy of the Arizona Department of Environmental Quality
15 Approval to Construct, for facilities needed to serve the extension area within two years of the
16 effective date of this Decision.

17 IT IS FURTHER ORDERED that Picacho Water Company shall file with Docket Control, as
18 a compliance item in this docket, a copy of the developer's Certificate of Assured Water Supply for
19 the extension area within two years of the effective date of this Decision.

20 IT IS FURTHER ORDERED that Picacho Water Company and Picacho Sewer Company
21 shall file with Docket Control, as a compliance item in this docket, a copy of the Pinal County
22 franchise agreement for the extension area within 365 days of this Decision.

23 IT IS FURTHER ORDERED that if Picacho Water Company or Picacho Sewer Company
24 fails to comply with the above ordering paragraphs within the specified timeframes, the Certificates
25 of Convenience and Necessity, conditionally granted herein, shall be null and void, after due process.

26 IT IS FURTHER ORDERED that in light of the on-going drought conditions in central
27 Arizona and the need to conserve groundwater, Picacho Water Company Picacho Sewer Company
28 are prohibited from selling groundwater for the purpose of irrigating any future golf courses within

the certificated expansion areas or any ornamental lakes or water features located in the common areas of the proposed new developments within the certificated expansion areas.

IT IS FURTHER ORDERED that Picacho Water Company and Picacho Sewer Company shall annually file as part of their annual reports, an affidavit with the Utilities Division attesting that the Companies are current on paying their property taxes in Arizona.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

<p><i>Jeffrey M. Hatch-Miller</i> CHAIRMAN</p>	<p><i>William M. Miller</i> COMMISSIONER</p>
<p><i>James E. McNeil</i> COMMISSIONER</p>	<p><i>Brian C. McNeil</i> COMMISSIONER</p>
	<p><i>Brian C. McNeil</i> COMMISSIONER</p>

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 5th day of Dec., 2006.

Brian C. McNeil
 BRIAN C. McNEIL
 EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR:

PICACHO WATER COMPANY and PICACHO
SEWER COMPANY

2
3 DOCKET NOS.:

W-03528A-06-0313 and SW-03709A-06-0314

4 Jim Poulos
5 9532 E. Riggs Road
6 Sun Lakes, AZ 85248

7 Christopher Kempley, Chief Counsel
8 Legal Division

9 ARIZONA CORPORATION COMMISSION
10 1200 West Washington Street
11 Phoenix, AZ 85007

12 Ernest G. Johnson, Director
13 Utilities Division

14 ARIZONA CORPORATION COMMISSION
15 1200 West Washington
16 Phoenix, AZ 85007
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EXHIBIT A

Legal Description

Robson Ranch Arizona
Units 27 & 28
Addition to Picacho Water Company CC&N

March 22, 2006

A parcel of land located within the Northeast Quarter of Section 20, and within the West Half and the Southeast Quarter of Section 21, Township 7 South, Range 7 East, of the Gila and Salt River Meridian, Pinal County, Arizona, more particularly described as follows:

BEGINNING at the Northwest Corner of said Section 21, a 5/8" rebar;

THENCE South 89°55'22" East 2,648.14 feet along the North line of the Northwest Quarter of said section, to the North Quarter Corner of said section, a GLO brass cap;

THENCE South 00°21'58" West 2,646.48 feet, along the North-South mid-section line of said Section 21, to the East-West mid-section line of said section;

THENCE South 89°46'12" East 332.91 feet along said East-West mid-section line;

THENCE South 00°23'21" West 809.82 feet to the Northeasterly line of Jimmie Kerr Boulevard (Highway 84);

THENCE North 53°50'54" West 85.98 feet along said Northeasterly line, to the beginning of a non-tangent curve, concave Southwesterly, having a radius of 11,509.16 feet, the center of which bears South 33°00'19" West;

THENCE Northwesterly 372.64 feet continuing along said Northeasterly line of Jimmie Kerr Boulevard, and along the arc of said curve, through a central angle of 01°51'18";

THENCE continuing along said Northeasterly line, North 58°50'59" West 274.00 feet, to the beginning of a tangent curve, concave Northeasterly, having a radius of 11,409.16 feet;

THENCE Northwesterly 777.56 feet continuing along said Northeasterly line of Jimmie Kerr Boulevard, and along the arc of said curve, through a central angle of 03°54'17", to the said East-West mid-section line of Section 21;

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Legal Description

Robson Ranch Arizona
Units 27 & 28
Addition to Picacho Water Company CC&N (cont'd)

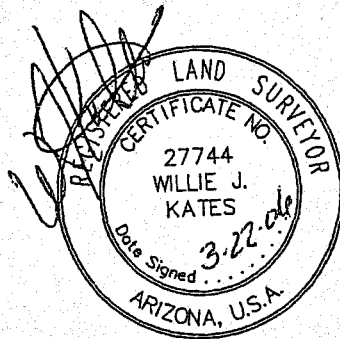
March 22, 2006

THENCE South 89°46'12" East 20.30 feet along said mid-section line;

THENCE continuing along said Northeasterly line of Jimmie Kerr Boulevard, North 53°50'54" West 4,467.63 feet, to the North line of said Northeast Quarter of Section 20;

THENCE North 89°40'35" East 1,899.41 feet along said North line, to the TRUE POINT OF BEGINNING.

The above described parcel contains 7,766,054 square feet, or 178.2841 acres, more or less.



Legal Description

Robson Ranch Arizona
Units 27 & 28
Addition to Picacho Sewer Company CC&N

March 22, 2006

A parcel of land located within the Northeast Quarter of Section 20, and within the West Half and the Southeast Quarter of Section 21, Township 7 South, Range 7 East, of the Gila and Salt River Meridian, Pinal County, Arizona, more particularly described as follows:

BEGINNING at the Northwest Corner of said Section 21, a 5/8" rebar;

THENCE South 89°55'22" East 2,648.14 feet along the North line of the Northwest Quarter of said section, to the North Quarter Corner of said section, a GLO brass cap;

THENCE South 00°21'58" West 2,646.48 feet, along the North-South mid-section line of said Section 21, to the East-West mid-section line of said section;

THENCE South 89°46'12" East 332.91 feet along said East-West mid-section line;

THENCE South 00°23'21" West 809.82 feet to the Northeasterly line of Jimmie Kerr Boulevard (Highway 84);

THENCE North 53°50'54" West 85.98 feet along said Northeasterly line, to the beginning of a non-tangent curve, concave Southwesterly, having a radius of 11,509.16 feet, the center of which bears South 33°00'19" West;

THENCE Northwesterly 372.64 feet continuing along said Northeasterly line of Jimmie Kerr Boulevard, and along the arc of said curve, through a central angle of 01°51'18";

THENCE continuing along said Northeasterly line, North 58°50'59" West 274.00 feet, to the beginning of a tangent curve, concave Northeasterly, having a radius of 11,409.16 feet;

THENCE Northwesterly 777.56 feet continuing along said Northeasterly line of Jimmie Kerr Boulevard, and along the arc of said curve, through a central angle of 03°54'17", to the said East-West mid-section line of Section 21;

DECISION NO. 69174

Legal Description

Robson Ranch Arizona
Units 27 & 28
Addition to Picacho Sewer Company CC&N (cont'd)

March 22, 2006

THENCE South 89°46'12" East 20.30 feet along said mid-section line;

THENCE continuing along said Northeasterly line of Jimmie Kerr Boulevard, North 53°50'54" West 4,467.63 feet, to the North line of said Northeast Quarter of Section 20;

THENCE North 89°40'35" East 1,899.41 feet along said North line, to the TRUE POINT OF BEGINNING.

The above described parcel contains 7,766,054 square feet, or 178.2841 acres, more or less.

